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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 3 p.m.

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS (agenda item 19) (E/CN.4/1999/98-102 and 103 and Add.1; A/53/309 and 355)

1. Ms. RUSTAM (Indonesia) said that activities for the promotion and protection of human rights were of equal value and mutually reinforcing. When the protection aspect prevailed, however, there was a risk of politicization. Promotional activities in the form of training and education, institution-building and legislation were essential prerequisites for sustained observance of human rights standards. Advisory services and technical cooperation were a highly effective means of developing national human rights capacity.

2. Monitoring was an entirely separate activity and could render technical cooperation ineffective if the two were combined. The monitoring aspect tended to predominate in the Commission's work. It was a relatively cheap exercise that accommodated the political interests of the Governments concerned. Technical cooperation and advisory services required more resources, time and effort. Promotional programmes were a continuing process that involved infrastructural development. A country's level of development should be taken into account in any assessment of the human rights situation, although it could never be an excuse for human rights violations.

3. Her Government had launched a five-year National Plan of Action on Human Rights in June 1998, implementation of which was expected to result in a strengthened structural framework for human rights. The Plan was based on four principles: ratification of international human rights instruments; information and education on human rights; measures to address human rights issues, particularly those relating to non-derogatory rights; and the implementation of ratified international treaties. Increased bilateral and multilateral cooperation was sought in support of the Plan and a project to that effect was being implemented in the context of the Memorandum of Understanding on technical cooperation concluded between the Government and the Office of the High Commissioner for Human Rights (OHCHR). The project covered the strengthening of national human rights reporting capacity, elaboration of education programmes, raising public awareness and strengthening the capacity of the Indonesian National Commission on Human Rights. A programme to build up national reporting capacity was also being conducted in cooperation with the Government of Australia.

4. Her delegation had taken note of the increase in contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights and emphasized the need to appropriate additional resources from the regular budget for activities in that field.

5. Mr. MANSOUR (Observer for the Islamic Republic of Iran) said that the remarkable increase in the number of requests for advisory services and technical cooperation reported by the Secretary-General (E/CN.4/1999/99) reflected the growing commitment of States to the promotion and protection of human rights and encouraged human rights activists to pursue their work with renewed vigour. He commended OHCHR on its provision of advisory services and technical and financial assistance but regretted that all the requests had not

been met owing to lack of capacity and inadequate resources. All Member States should seek ways and means of strengthening OHCHR capacity in that area, inter alia by allocating additional resources for the purpose. Such services should be provided in an impartial, non-political and transparent way. He was pleased to announce that his country's request for technical assistance and advisory services had finally received a positive response.

6. Noting with interest the conclusion of a Memorandum of Understanding between OHCHR and the United Nations Development Programme (UNDP) in May 1998, he expressed the hope that the new UNDP commitment would contribute to the promotion of human rights worldwide. The Faculty of Legal and Political Science of Tehran University had concluded an agreement with the UNDP Office in Tehran on a four-year joint project for human rights education and research.

7. Ms. PELCANDINI (International Committee of the Red Cross (ICRC)) said that the fiftieth anniversary of the four Geneva Conventions for the Protection of Victims of War would fall on 12 August 1999. It was important to ensure wide dissemination of the rules they contained and to give them practical effect by incorporating them in domestic legislation and legal procedures. The ICRC Advisory Service on International Humanitarian Law offered Governments practical and technical advice on the enforcement of humanitarian law treaties.

8. The Advisory Service had recently been focusing on the need to make provision in domestic criminal law and procedure for the repression of war crimes and other serious violations of international humanitarian law. Experts had met at Geneva in November 1998 to discuss such action in common-law countries and experts from Spain and Latin America had met at Madrid in March 1999 to consider ways of amending domestic legislation to provide for the prosecution of war crimes and to permit ratification of the Statute of the International Criminal Court. In the light of their findings, the Advisory Service had begun to issue guiding principles on relevant technical issues.

9. The Advisory Service also worked to facilitate exchanges between States on measures taken to implement international humanitarian law obligations. A collection of implementing enactments was being compiled and could be consulted by interested parties. To date, 47 States had set up national interministerial committees to facilitate the adoption of such measures. In some cases, the national human rights body was carrying out consultative functions. ICRC's Advisory Service supported the establishment of such structures, which had demonstrated their ability to achieve genuine progress in the implementation of international treaties.

10. The Advisory Service cooperated with OHCHR in the areas of education and dissemination and hoped to increase such cooperation and open up additional channels for dialogue and concerted action with the relevant regional and national bodies.

11. Mr. ABDEL MONEIM (Observer for Egypt) said that technical cooperation was one of the most important tools for strengthening the protection of human rights. While human rights concepts and values were essentially universal,

individual societies had to contend with special circumstances and problems. The technical cooperation programme was an effective means of addressing those problems and meeting individual requirements. For example, training programmes for law-enforcement and criminal-investigation personnel played an important role in preventing torture.

12. It was essential, however, that OHCHR should be in a position to distribute its human and material resources in a balanced way and voluntary contributions should not be tied to technical cooperation in specific fields. All States were responsible for ensuring respect for the principle of the universality and indivisibility of human rights and the freedom of donors to make contributions as they saw fit should not conflict with the principle of universality or promote double standards and selectivity.

13. Mr. LEÓN (Comission for the Defence of Human Rights in Central America), speaking also on behalf of the International Indian Treaty Council, said that urgent action by the United Nations and its specialized agencies was needed to assist States to extend the rule of law. Such action must be supplemented, however, by measures to support the institutions of civil society because of the role they played in promoting respect for human rights and for the rights of indigenous peoples.

14. Funds were needed to establish appropriate mechanisms to address the structural problems that were the root cause of systematic violations of human rights in many countries. In Guatemala, for example, the Government, civil society and the Mayan people needed advice on how to implement the recommendations of the Truth Commission aimed at national reconciliation. The United Nations Mission for the Verification of Human Rights in Guatemala (MINUGUA) would complete its work in the year 2000 and a replacement United Nations team was needed. The Special Rapporteur on the independence of judges and lawyers should visit Guatemala - as requested by the Government - to prevent impunity from destabilizing the country, despite the Supreme Court's opposition to the idea.

15. The Commission should provide funds to systematize information on every aspect of indigenous rights so that States' policies towards their indigenous peoples could be assessed. In addition to the establishment of a permanent forum, a special rapporteur for indigenous people should be appointed.

16. Ms. HECTOR (Lawyers Committee for Human Rights) said that there was a climate of impunity and political interference in the judicial process in Cambodia and non-governmental organizations (NGOs) were harassed. In December 1998, a human rights activist had been shot dead, seemingly for helping 15 families that were fighting possible eviction. The alleged killer was a member of a local militia and therefore protected by a legal provision giving immunity to "public officials". That provision should be repealed. Two other activists had been arrested after a demonstration against the dumping of toxic waste. They had been charged but their lawyers had been prevented from seeing the evidence against them for three weeks. The appeals court had later overruled the local court's decision in terms that clearly indicated that, at the local level anyway, political influence was regularly exercised over the judiciary.

17. Justice and reconciliation in Cambodia would be served only if there was accountability for the atrocities committed there between 1975 and 1979. Any mechanism for the prosecution of Khmer Rouge leaders must be both independent and fair but the Cambodian judicial infrastructure was quite inadequate and could not be remedied by injecting international financial and personnel assistance into the domestic tribunals. The Commission should thus recommend that the Security Council establish an ad hoc international criminal tribunal under Chapter VII of the Charter of the United Nations.

18. The Government of Cambodia should ensure that its representatives appeared before the Human Rights Committee to present the country's initial report under the International Covenant on Civil and Political Rights.

19. Mr. OWONA (International Young Catholic Students), speaking also on behalf of Pax Romana, said that the human rights situation in Haiti remained a cause for concern. In particular, a remarkable human rights defender, the liberation theologian Fr. Jean Pierre-Louis, had been brutally murdered by two gunmen on 3 August 1998. He had aroused the anger of a large landowning family by his speeches criticizing exploitation and domination and the Minister of Information had labelled him a communist. He had advocated political reforms, the complete elimination of paramilitary groups and the construction of a proper judicial system. The file on Fr. Jean's case was closed, as were those on so many others.

20. Policemen identified as responsible for human rights violations were left unpunished, intimidation of human rights organizations continued and a large number of persons were held in pre-trial detention for long periods without their cases coming to court. While the United Nations Civilian Police Mission in Haiti had done useful work, OHCHR assistance in the field of human rights was also urgently required, since the economic and social future of the Haitian people very largely depended on the implementation of the plan of action to reform the country's judicial system.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

21. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), bringing the Commission up to date on developments in the Kosovo crisis, said that there were currently six OHCHR staff members in Skopje, five in Tirana and three in Podgorica. The field office in Tirana would shortly be reinforced by five human rights officers contributed by the Government of Switzerland and two data-processing experts contributed by the Government of Norway (NORDEM programme) were already in Geneva to help her Office set up a database. Another three human rights officers from NORDEM would arrive shortly for deployment in Skopje. The Special Rapporteur on Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia was arranging a mission to the Federal Republic of Yugoslavia in the near future.

22. The number of persons dislocated by the crisis had continued to grow. According to the latest UNHCR statistics, there were 32,300 in Bosnia, 68,200 in Montenegro, 132,100 in the former Yugoslav Republic of Macedonia and 359,000 in Albania: a total of 591,600. Figures for Serbia were not available.

23. Over the past few days the number of refugees who had managed to cross international borders had fluctuated substantially. Earlier in the week many, including women and children, had been turned back at the border of the former Yugoslav Republic of Macedonia by Yugoslav officials. Those allowed to pass had reportedly obtained permission to enter the former Yugoslav Republic of Macedonia only after showing identity documents.

24. The World Food Programme (WFP) had estimated the number of internally displaced persons inside Kosovo at 800,000. Some refugees had been hiding for weeks in the hills and had had to walk for days in order to reach the border. Children and elderly people had died of exposure. Several refugees had reported being forced to pay substantial bribes to border officials in order to cross the frontier. Some refugees had shown signs of mistreatment and beatings such as scars and bruises, while others, including children, had bullet or shrapnel wounds. The first cases of malnutrition had also been reported.

25. On 17 April, five refugees, including three children, had died in a landmine explosion in the no man's land between a Serbian checkpoint and the Albanian border. The United Nations High Commissioner for Refugees (UNHCR) expected thousands of refugees to flee the region over the next few days.

26. One of the objectives of the OHCHR mission was to determine trends. Testimonies received so far confirmed that, in many cases, inhabitants had been forced to leave after their towns or villages had been shelled or set on fire by Serb military or paramilitary forces or the police.

27. Several people from Llashtice had reported the shelling of their village by heavy artillery on 17 March, obliging the population to hide in nearby woods for 15 days. Their houses had reportedly been burned by paramilitaries and regular Yugoslav army troops. One group which attempted to flee had been surrounded by paramilitary forces who had opened fire on them. They had later encountered a group of Serb regular forces who had taken their identity papers and robbed them. Several young men had been beaten. Men had been ordered to fetch their tractors and the villagers had been ordered to go to the border.

28. On 14 April, about 100 people had reportedly been similarly expelled from Presheva. Many villages along the road from Gnjiliane to Presheva had reportedly been burned and the population forcibly expelled.

29. OHCHR staff members in Tirana had interviewed three refugee families from different villages in the Prizren municipality, who had reported that they had been forcibly evicted from their homes by Serbian police. Serbian forces had surrounded each village and the police had gone from house to house, ordering the occupants to leave within short times, ranging from 15 minutes to 1 hour. The police had arrived in tanks, armoured vehicles or what appeared to be confiscated civilian vehicles. They had either worn masks or their faces had been painted. Identity cards, car registration plates and valuables had been confiscated or destroyed. Her staff in the field had provided her with numerous similar accounts of forcible displacement.

30. In one incident it had been reported that six ethnic Albanians had been killed by Yugoslav army fire in the village of Kaluderski Laz, Montenegro.

Many Kosovars, as well as ethnic Albanians from Montenegro, had been leaving for Albania, fearing a spillover of ethnic cleansing into Montenegro.

31. OHCHR staff members in the field continued to receive accounts of mass executions and killings in Kosovo. Serbs reportedly killed those who hesitated to leave their houses or villages when ordered to do so. Three bodies of persons who had been shot in the head had reportedly been found after the forced displacement of the population of a village close to Gnjiliane. Other witnesses had reported that, on 15 April, paramilitary and regular forces had expelled the residents of the village of Rahovia, on the outskirts of Presheva. Two people had allegedly been executed. One witness had said that, after being ordered out of his home he had hidden for four days in a nearby house; when he had finally left his village - near Djakovica - he had seen 15 to 20 corpses with their throats slit. In another interview, a refugee family had stated that they had witnessed the machine-gun killing of 10 relatives by Serbian police on 25 March in Celin.

32. UNHCR reported that there was a significant number of handicapped children and adults requiring special care among the refugees. The ICRC had already registered 251 unaccompanied children and recorded 826 parents claiming one or more missing children.

33. Newly arrived refugees had stated that thousands of Kosovo Albanians had been "detained" between Mitrovica and Djakovica and were being used as forced labour. More information on that allegation was being sought.

34. Various sources had reported that as many as 100,000 Kosovo Albanian men of fighting age were unaccounted for.

35. OHCHR staff members in the field had contacted a number of local organizations to seek information concerning the situation of women refugees. Interviews had so far revealed that they had experienced the same treatment as men. When women refused police demands for money they were beaten or treated roughly. In addition, women had witnessed the ill-treatment of male family members, including the execution before their eyes of husbands or sons and the separation or abduction of male family members or men from the community. There had also been alleged sexual assaults.

36. OHCHR staff members reported that patients from the Pristina hospital arriving at the Radusha camp in Macedonia had told Médecins du Monde that the hospital in Pristina had been closed and all the patients expelled. The consequences of the month-long bombing by the North Atlantic Treaty Organization (NATO) on economic and social rights in the Federal Republic of Yugoslavia were not known. She had written to the authorities of that country giving them the opportunity to provide her with information.

37. With regard to civilian casualties resulting from the NATO military action, she had offered the authorities of the Federal Republic of Yugoslavia the opportunity to provide her with information. They had replied in the following terms:

> "As a consequence of the NATO action, the living conditions of the 11 million citizens of the Federal Republic of Yugoslavia have

dramatically changed. Hundreds of thousands of workers have become jobless due to the destruction of industrial facilities. Hundreds of families were left roofless after destruction of residential buildings. The destruction of heating plants has left half the citizens of Belgrade without any heating. After the destruction of a bridge on the Danube river in Novi Sad, 600,000 residents were cut-off from safe drinking water supply.

Over 190 schools and education facilities have been destroyed and many hospitals and care institutions have been either damaged or destroyed.

To date, over 500 civilians have been reported killed. Over 4,000 have sustained severe injuries, particularly in Kursumlija, Pancevo, Cacak, Pristina, Orahovac."

38. She reiterated her call to the responsible authorities in the Federal Republic of Yugoslavia and the international community to increase their efforts to reach a peaceful resolution of the situation, in order to put an end to the suffering of the people of Kosovo and the Federal Republic of Yugoslavia. She also commended the valuable work carried out by international organizations, especially UNHCR, and international and local NGOs on the ground in Albania, the former Yugoslav Republic of Macedonia and Montenegro. Lastly, she paid special tribute to the memory of the three humanitarian aid workers, including two staff members of Refugees International, who had lost their lives in the past week in a car accident while bringing aid to refugees in Northern Albania.

The meeting rose at 3.55 p.m.